

Summary of Recent Maine Board of Pesticides Control Discussions on Aerial Spraying and Drift

Aerial pesticide spraying has created controversy in Maine dating back to the 1980s. Several recent events convinced the Maine Board of Pesticides Control (the Board) that changes to the current requirements for aerial spraying are necessary. The Board and two subcommittees have been discussing potential changes since early 2007. A summary of the Board's progress to date is contained below.

The Board is seeking comments and input on its work to date. Please direct comments to Paul Schlein (paul.b.schlein@maine.gov).

Definition of Sensitive Area Likely to Be Occupied

Since the Board has focused its efforts relating to aerial spraying on protecting humans, a key component of the discussions to date has been the development of a regulatory concept that would center the attention of land managers and applicators on people who may be adjacent to application sites. Consequently, the Board has been working to develop a definition of Sensitive Area Likely to Be Occupied (SALO). Based on recent discussions, the Board would rework the current list of 11 sensitive areas defined in CMR 01-026, Chapter 10, Section BBB.

Those 11 sensitive areas would be redefined and subdivided into those likely to be occupied versus those that are likely to be unoccupied. Examples of what the Board considers SALOs include all buildings that are routinely occupied, such as residences, commercial and institutional buildings, together with the developed areas surrounding those buildings that are commonly used, such as lawns, gardens, livestock areas, athletic fields or other recreational areas. Additional areas the Board is considering designating as SALOs include roads, parks, cemeteries and picnic or rest areas. The Board has not yet determined how or whether notification might be required in such places, especially when there is no regular staff person present.

Sensitive areas that the Board does not currently view as likely to be occupied include public and private drinking water supplies, water bodies and wetlands. The Board is still discussing how to handle apiaries and agricultural lands that are not associated with occupied buildings.

Notification

Upgraded notification requirements would be required when aerial spraying is conducted within 1,000 feet of a SALO as follows:

- Agricultural land managers will need to send an annual letter to the legal owner or lessee of a SALO within 1,000 feet of a target area notifying them that pesticides

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may be applied by air and of their right to receive timely, advance notice, if requested.

- The owner or lessee of a SALO may request additional information such as labels and Material Safety Data Sheets (MSDSs) of products that may be used, and/or they may request timely advance notice of spraying.
- If requested, the agricultural land manager or his designee must call the legal owner or lessee of the SALO 24–48 hours (timeframe still needs refining) in advance of aerial spraying.
 - If spraying is delayed, a follow-up call must be made before spraying, unless another system of updating affected parties is agreed upon.
- Public SALOs with no regular attendants and/or contact person, such as picnic or rest areas, may need to be exempt from this requirement, or pre-posting of the site may be an option.

Positive Identification of the Target Area

- The person contracting for an aerial pesticide application will need to provide information to ensure the aerial applicator sprays the correct sites as follows:
 - A site map that is geo-referenced and then verified by the applicator using an onboard Global Positioning System (GPS), or
 - A map with a detailed description of the location of the target area coupled with the use of unique ground markings pre-positioned in the target area.

Site Planning Requirements

Similar to the changes in the notification requirements described above, upgrades to the site planning requirements would hinge upon the definition of SALOs, and be linked to the presence of SALOs within 1,000 feet of the target area. A new section would be created in Chapter 22 (drift rule) specific to aerial application. Among other things, the new section would:

- Require the person contracting for an aerial application to provide a detailed site map to the aerial applicator
 - Map must be to scale, and depict
 - Boundaries of the target area
 - Property boundaries
 - Type and location of SALOs located within 1,000 feet of the target area
 - Type and location of sensitive areas, as defined under CMR 01-026, Chapter, Section BBB located within 500 feet of the target area
 - Roads
 - Significant landmarks or hazards

[updated May 28, 2008]